

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

GERALD CORNELIUS ELDRIDGE,

Petitioner,

v.

RICK THALER, Director,  
Texas Department of Criminal  
Justice-Correctional Institutions  
Division,

Respondent.

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§ CIVIL NO. H-05-1847  
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ORDER DENYING PETITIONER'S MOTION FOR RECONSIDERATION

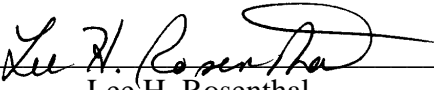
On April 18, 2011, this court denied as moot Eldridge's motion for an order requiring the audio taping of an examination conducted by the respondent's expert. The examination in question occurred on April 5, 2011. On April 28, 2011, Eldridge filed a motion for reconsideration.

"A motion to reconsider an order. . . is appropriate when the court is presented with newly discovered evidence, when the court committed clear error, when there is an intervening change in controlling law, or when other highly unusual circumstances exist." *Becerra v. Asher*, 921 F.Supp. 1538, 1548 (S.D. Tex. 1996), *aff'd*, 105 F.3d 1042 (5th Cir.), *cert. denied sub nom. Becerra v. Houston Independent School District*, 522 U.S. 824 (1997). Eldridge's motion presents no basis for reconsideration. This court has previously denied Eldridge's motion to allow videotaping of examinations in an Order entered on February 16, 2010. The reasoning in that Order is equally applicable to his request for audio taping. Moreover, Eldridge's motion was not denied because he filed it too late, but because he filed it too close to the examination to permit a response before the

examination date. This court did not review the motion until the due date for the respondent's opposition, by which time it was moot. There is no clear error or change in intervening law, and Eldridge presents no newly discovered evidence.

The petitioner's Motion For Reconsideration (Docket Entry 148) is **Denied**.

SIGNED on June 6, 2011, at Houston, Texas.

  
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Lee H. Rosenthal  
United States District Judge